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concerned has been offered an opportunity for a hearing conducted in accordance with § 92.216 and, if a manufacturer or remanufacturer requests such a hearing, will be made only after an initial decision by the Presiding Officer.

Subpart E—Emission-Related Defect Reporting Requirements, Voluntary Emission Recall Program

§ 92.401 Applicability.

The requirements of this subpart are applicable to manufacturers and remanufacturers of locomotives and locomotive engines subject to the provisions of subpart A of this part. The requirement to report emission-related defects affecting a given class or category of locomotives or locomotive engines applies for eight years from the end of the year in which such locomotives or locomotive engines were manufactured, or remanufactured, as applicable.

§ 92.402 Definitions.

The definitions of subpart A of this part apply to this subpart.

§ 92.403 Emission defect information report.

(a) A manufacturer or remanufacturer must file a defect information report whenever it determines, in accordance with procedures it established to identify either safety-related or performance defects, (or based on other information) that a specific emission-related defect exists in ten or more locomotives or locomotive engines. No report must be filed under this paragraph for any emission-related defect corrected prior to the sale, or reintroduction into service of a remanufactured locomotive or locomotive engine, of the affected locomotives or locomotive engines to an ultimate purchaser.

(b) Defect information reports required under paragraph (a) of this section must be submitted not more than 15 working days after the same emission-related defect is found to effect 10 or more locomotives or locomotive engines. Information required by paragraph (c) of this section that is either

not available within 15 working days or is significantly revised must be submitted as it becomes available.

(c) Except as provided in paragraph (b) of this section, each defect report must contain the following information in substantially the format outlined as follows:

(1) The manufacturer's or remanufacturer's corporate name.

(2) A description of the defect.

(3) A description of each class or category of locomotives or locomotive engines potentially affected by the defect including make, model, calendar year produced, purchaser (or owner) and any other information as may be required to identify the locomotives or locomotive engines affected.

(4) For each class or category of locomotives and locomotive engines described in response to paragraph (c)(3) of this section, the following shall also be provided:

(i) The number of locomotives and/or locomotive engines known or estimated to have the defect and an explanation of the means by which this number was determined.

(ii) The address of the plant(s) at which the potentially defective locomotives or locomotive engines were produced.

(5) An evaluation of the emissions impact of the defect and a description of any operational or performance problems which a defective locomotive or locomotive engine might exhibit.

(6) Available emissions data which relate to the defect.

(7) An indication of any anticipated follow-up by the manufacturer or remanufacturer.

§ 92.404 Voluntary emissions recall reporting.

(a) When any manufacturer or remanufacturer initiates a voluntary emissions recall campaign involving a locomotive or locomotive engine, the manufacturer or remanufacturer shall submit to EPA a report describing the manufacturer's or remanufacturer's voluntary emissions recall plan as prescribed by this section within 15 working days of the date owner notification was begun. The report shall contain the following:

(1) A description of each class or category of locomotives or locomotive engines recalled including the number of locomotives or locomotive engines to be recalled, the calendar year if applicable, the make, the model, and such other information as may be required to identify the locomotives or locomotive engines recalled.

(2) A description of the specific modifications, alterations, repairs, corrections, adjustments, or other changes to be made to correct the locomotives or locomotive engines affected by the emission-related defect.

(3) A description of the method by which the manufacturer or remanufacturer will notify locomotive or locomotive engine owners.

(4) A description of the proper maintenance or use, if any, upon which the manufacturer or remanufacturer conditions eligibility for repair under the remedial plan, an explanation of the manufacturer's or remanufacturer's reasons for imposing any such condition, and a description of the proof to be required of a locomotive or locomotive-engine owner to demonstrate compliance with any such condition.

(5) A description of the procedure to be followed by locomotive or locomotive-engine owners to obtain correction of the nonconformity. This shall include designation of the date on or after which the owner can have the nonconformity remedied, the time reasonably necessary to perform the labor to remedy the defect, and the designation of facilities at which the defect can be remedied.

(6) If some or all the nonconforming locomotives or locomotive engines are to be remedied by persons other than authorized warranty agents of the manufacturer or remanufacturer, a description of the class of persons other than authorized warranty agents of the manufacturer or remanufacturer who will remedy the defect.

(7) A copy of any written notification sent to locomotive or locomotive-engine owners.

(8) A description of the system by which the manufacturer or remanufacturer will assure that an adequate supply of parts will be available to perform the repair under the remedial plan including the date by which an

adequate supply of parts will be available to initiate the repair campaign, the percentage of the total parts requirement of each person who is to perform the repair under the remedial plan to be shipped to initiate the campaign, and the method to be used to assure the supply remains both adequate and responsive to owner demand.

(9) Three copies of all necessary instructions to be sent to those persons who are to perform the repair under the remedial plan.

(10) A description of the impact of the changes on fuel consumption, operation or performance, and safety of each class or category of locomotives or locomotive engines to be recalled.

(11) A sample of any label to be applied to locomotives or locomotive engines which participate in the voluntary recall campaign.

(b) Unless otherwise specified by the Administrator, the manufacturer or remanufacturer shall report on the progress of the recall campaign by submitting subsequent reports for six consecutive quarters, or until proven that remedial action has been adequately taken on all affected locomotives or locomotive engines, whichever occurs first, commencing with the quarter after the voluntary emissions recall campaign actually begins. Such reports shall be submitted no later than 25 working days after the close of each calendar quarter. For each class or category of locomotive or locomotive engine subject to the voluntary emissions recall campaign, the quarterly report shall contain the:

(1) Emission recall campaign number, if any, designated by the manufacturer or remanufacturer.

(2) Date owner notification was begun, and date completed.

(3) Number of locomotives or locomotive engines involved in the voluntary emissions recall campaign.

(4) Number of locomotives or locomotive engines known or estimated to be affected by the emission-related defect and an explanation of the means by which this number was determined.

(5) Number of locomotives or locomotive engines inspected pursuant to voluntary emission recall plan.

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(6) Number of inspected locomotives or locomotive engines found to be affected by the emissions-related defect.

(7) Number of locomotives or locomotive engines actually receiving repair under the remedial plan.

(8) Number of locomotives or locomotive engines determined to be unavailable for inspection or repair under the remedial plan due to exportation, scrappage, or for other reasons (specify).

(9) Number of locomotives or locomotive engines determined to be ineligible for remedial action due to a failure to properly maintain or use such locomotives or locomotive engines.

(10) Three copies of any service bulletins which relate to the defect to be corrected and which have not previously been reported.

(11) Three copies of all communications transmitted to locomotive or locomotive-engine owners which relate to the defect to be corrected and which have not previously been submitted.

(c) If the manufacturer or remanufacturer determines that any of the information requested in paragraph (b) of this section has changed or was incorrect, revised information and an explanatory note shall be submitted. Answers to paragraphs (b) (5), (6), (7), (8), and (9) of this section shall be cumulative totals.

(d) The manufacturer or remanufacturer shall maintain in a form suitable for inspection, such as computer information storage devices or card files, the names and addresses of locomotive and locomotive-engine owners:

(1) To whom notification was given;

(2) Who received remedial repair or inspection under the remedial plan; and

(3) Who were determined not to qualify for such remedial action when eligibility is conditioned on proper maintenance or use.

(e) The records described in paragraph (d) of this section shall be made available to the Administrator upon request.

§ 92.405 Alternative report formats.

(a) Any manufacturer or remanufacturer may submit a plan for making either of the reports required by §§ 92.403 and 92.404 on computer diskettes, mag-

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netic tape or other machine readable format. The plan shall be accompanied by sufficient technical detail to allow a determination that data requirements of these sections will be met and that the data in such format will be usable by EPA.

(b) Upon approval by the Administrator of the reporting system, the manufacturer or remanufacturer may use such system until otherwise notified by the Administrator.

§ 92.406 Reports filing; record retention.

(a) The reports required by §§ 92.403 and 92.404 shall be sent to: Group Manager, Engine Compliance Programs Group, Engine Programs and Compliance Division, U.S. Environmental Protection Agency, 6403-J, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

(b) The information gathered by the manufacturer or remanufacturer to compile the reports required by §§ 92.403 and 92.404 shall be retained for not less than 8 years from the date of the manufacture of the locomotives or locomotive engines and shall be made available to duly authorized officials of the EPA upon request.

EFFECTIVE DATE NOTE: At 63 FR 19059, Apr. 16, 1998, § 92.406 was added. This section contains information collection and record-keeping requirements and will not become effective until approval has been given by the Office of Management and Budget.

§ 92.407 Responsibility under other legal provisions preserved.

The filing of any report under the provisions of this subpart shall not affect a manufacturer's or a remanufacturer's responsibility to file reports or applications, obtain approval, or give notice under any provision of law.

§ 92.408 Disclaimer of production warranty applicability.

(a) The act of filing an Emission Defect Information Report pursuant to § 92.403 is inconclusive as to the existence of a defect subject to the warranty provided by section 207(a) of the Act.

(b) A manufacturer or remanufacturer may include on each page of its Emission Defect Information Report a disclaimer stating that the filing of a